

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Wanda Lowe,

Plaintiff,

v.

Charter Communications, Inc.,

Defendant.

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Civil Action No.: _____

COMPLAINT

JURY TRIAL DEMANDED

For this Complaint, the Plaintiff, Wanda Lowe, by undersigned counsel,
states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here, Plaintiff resides in this judicial district, and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

4. The Plaintiff, Wanda Lowe (“Plaintiff”), is an adult individual residing in Morrow, Georgia, and is a “person” as defined by 47 U.S.C. § 153(10).

5. Defendant Charter Communications, Inc. (“Charter”), is a Missouri business entity with an address of 12405 Powerscourt Drive, Saint Louis, Missouri 63131, and is a “person” as defined by 47 U.S.C. § 153(10).

FACTS

6. Within the last year, Charter contacted Plaintiff’s cellular telephone, number xxx-xxx-4215.

7. Charter placed calls to Plaintiff’s cellular telephone using an automated telephone dialer system (“ATDS”) and/or by using an artificial or prerecorded voice.

8. Calls from Charter are originating from the following numbers, including, but not limited to 877-384-9039.

9. When Plaintiff answered the calls from Charter, she heard a prerecorded message delivered by Charter. The prerecorded message instructed Plaintiff to return the call to discuss an account relating to an individual other than Plaintiff.

10. Plaintiff spoke with Charter and explained that she is not the individual they are calling for and further requested that Charter cease calls to her cellular telephone.

11. Nonetheless, Charter continued to place calls to Plaintiff's cellular telephone at an excessive rate placing up to six calls daily.

12. Plaintiff never provided her cellular telephone number to Charter and never provided her consent to be contacted on her cellular telephone.

13. Regardless, Charter continued to place calls to Plaintiff's cellular telephone knowing that it lacked consent to do so.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –
47 U.S.C. § 227, et seq.

14. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

15. At all times mentioned herein and within the last four years, Charter called Plaintiff on her cellular telephone using an automatic telephone dialing system ("ATDS") and/or by using a prerecorded or artificial voice.

16. Plaintiff did not provide consent to Charter to be contacted on her cellular telephone or to receive ATDS calls on her cellular telephone.

17. Regardless, Charter placed calls to Plaintiff's cellular telephone using a prerecorded voice knowing that it lacked consent to call her number. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

18. The telephone number called by Charter was assigned to a cellular telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

19. The calls from Charter to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

20. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

21. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: November 27, 2013

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.
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